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14 IN THE UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16
17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 ETHAN ANDREW EVANS TINDUKASIRI,
21 Defendant.

CASE NO. 1:22-MJ-00117-SAB
1:22-MJ-00114-SAB

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: September 22, 2023
TIME: 2:00 p.m.
COURT: Hon. Barbara A. McAuliffe

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2 This case is set for a preliminary hearing on September 22, 2023. The parties agree and stipulate
3 to continue the preliminary hearing until December 1, 2023 at 2:00 p.m. before the duty magistrate.
4 Defense counsel has continued to be engaged in discussions and further investigation, and needs
5 additional time to conclude that process. Additionally, the parties are engaged in discussions and
6 investigation of issues related to a possible pre-indictment resolution, exploring issues related to the
7 defendant's mental health, as well as consultation with or seeking consultation with experts. The
8 defense has provided the government with a mental health assessment and the government retained an
9 expert to help assess the case. The government is in consultation with its expert, and needs additional
10 time to further consult with relevant parties. There are complex factual and legal issues the parties are
11 exploring, and believe that additional time to conclude that process will be productive in moving the
12 case forward.

13 If the case is continued, this Court should designate a new date for the preliminary hearing.

¹ *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be
² “specifically limited in time”).

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for preliminary hearing on September 22, 2023.

2. By this stipulation, defendant now moves to continue the preliminary hearing until

December 1, 2023, at 2:00 p.m. and to exclude time between September 22, 2023, and December 1, 2023, under Local Code T4.

3. The parties agree and stipulate, and request that the Court find the following:

- a) The parties are discussing and conducting further investigation into pre-indictment matters, and need additional time to conclude.

- b) Counsel for defendant desires additional time to consult with her client, conduct further investigation, provide time for the government to assess information defense provided, and further discuss charges with the government.

- c) Counsel for defendant has received a report from an expert defense retained, and the parties need time to further discuss and evaluate that.

- d) The parties are engaged in discussions and investigation of issues related to the defendant's mental health, as well as consultation with or seeking consultation with experts

- e) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking account the exercise of due diligence.

- f) The government does not object to the continuance.

- g) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held “no later than 14 days after initial appearance if the defendant is in custody,” unless the defendant consents and there is a “showing of good cause”. Here, the defendant consents and there is good cause as set forth herein.

- h) Based on the above-stated findings, the ends of justice served by continuing the

1 case as requested outweigh the interest of the public and the defendant in an indictment or trial
2 within the original dates prescribed by the Speedy Trial Act.

3 i) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
4 et seq., within which an indictment must be filed and within which a trial must commence, the
5 time period of September 22, 2023 to December 1, 2023, inclusive, is deemed excludable
6 pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a
7 continuance granted by the Court at defendant's request on the basis of the Court's finding that
8 the ends of justice served by taking such action outweigh the best interest of the public and the
9 defendant in a speedy indictment/trial.

10 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
11 Speedy Trial Act dictate that additional time periods are excludable from the period within which an
12 indictment must be filed and a trial must commence.

13 IT IS SO STIPULATED.

14 Dated: September 20, 2023

PHILLIP A. TALBERT
United States Attorney

16 /s/ KIMBERLY A. SANCHEZ
17 KIMBERLY A. SANCHEZ
18 Assistant United States Attorney

Dated: September 20, 2023

19 /s/ CAROL ANN MOSES
20 CAROL ANN MOSES
21 Counsel for Defendant
22 ETHAN ANDREW EVANS
23 TINDUKASIRI

ORDER

IT IS SO ORDERED that the preliminary hearing is continued from September 22, 2023, to December 1, 2023, at 2:00 p.m. before Magistrate Judge Barbara A. McAuliffe. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

IT IS SO ORDERED.

Dated: **September 20, 2023**

/s/ Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE